



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 6, 1996

Mr. K.H. Schneider
County Attorney
Bandera County
P.O. Box 1435
Bandera, Texas 78003

OR96-2051

Dear Mr. Schneider:

You ask whether certain information is subject to required public disclosure under the Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 102190.

Both the Bandera County Attorney and the Bandera County District Court Clerk received a request for the same information. You state that the County Attorney for Bandera County possesses none of the information and that "[a]ll, or at least some, of the requested information is not in the possession of" the District Court Clerk for Bandera County. In an apparent reference to Government Code section 552.002, which defines "public information" for purposes of the Open Records Act, you also say that "none of the records or information pertaining to the grand jury are within public information that is 'collected, assembled or maintained' by the office of the county attorney" and that "none of the records of information pertaining to the information pertaining to grand jury proceedings and/or investigations and/or witnesses appearing before the grand jury is 'collected, assembled or maintained' by the office of the District Court Clerk of Bandera County". You ask several questions regarding a governmental body's duty to respond to a request for information in the possession of another governmental body.

The act requires an "officer for public information" of a governmental body to promptly produce public information. Gov't Code §§ 552.203, 552.221. The act generally does not require a governmental body to obtain information not in its possession from another entity or to obtain new information in order to comply with an open records request. See Open Records Decision Nos. 561 (1990), 558 (1990), 534 (1989). This is so with regard to county records in particular.

With regard to county records, Government Code section 552.201(b) reads as follows:

Each elected county officer is the officer for public information and the custodian, as defined by Section 201.003, Local Government Code, of the information created or received by that county officer's office.

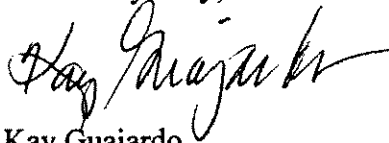
Local Government Code section 201.003(2) defines "custodian" as:

the appointed or elected public officer who by the state constitution, state law, ordinance, or administrative policy is in charge of an office that creates or receives local government records.

We do not believe that the custodian for public information of one county entity serves as the custodian for public information held by any other county entity; a custodian's duty under the act to disclose public information applies only to information maintained by that custodian's office.¹ Furthermore, a governmental body's duty to obtain requested information from another entity only arises if that entity holds the information on behalf of that governmental body. See Open Records Decision No. 534 (1989) at 2. Thus, the act does not require the Bandera County Attorney or the Bandera County District Clerk to respond to requests directed to another Bandera County entity.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo
Assistant Attorney General
Open Records Division

KHG/rho

¹While we do not believe that a county public officer's duty extends to the production of information held by another county entity, this duty may exist if a requestor fails to correctly identify the "officer for public records" of a governmental body. The act requires a governmental body to respond to a request directed to any agent of the governmental body. See Open Records Decision No. 497 (1988) at 3; see also Local Gov't Code § 201.003(7) (defining "governing body" for purposes of Local Government Records Act, Local Gov't Code § 201.001, *et seq.*).

Ref.: ID# 102190

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